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OFFICE OF PETITIONS

In re Application of
Brian J. Bagwell
Application No. 10/816,058
Filed: April 1, 2004
Attorney Docket No. **32984-1**

DECISION GRANTING PETITION

This is a decision on the petition filed July 28, 2004, to accord the above-identified application a filing date of April 1, 2004.

On April 1, 2004, the application was deposited.

On July 22, 2004, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of the drawings.

In response, the present petition alleges that the drawings did accompany the original application papers. Petitioner also provided statement from persons with knowledge of the filing of the application and a copy of an Office date-stamped postcard acknowledging receipt of an unspecified number of drawings, among other items.

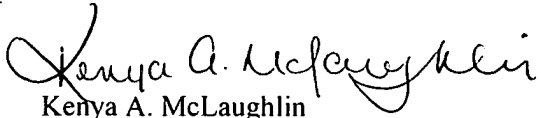
The drawings were not found with the application papers, and the itemization of the postcard is lacking in that it does not indicate how many sheets of drawings were received. It has determined, however, that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).¹ A review of the record reveals that claim 13 is a method claim. Therefore, the present application is deemed to be an application that does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date. Petitioner must file an amendment requesting entry of the drawings filed July 28, 2004, prior to the first action on the merits.

In view of the above, the petition is **granted**.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 1, 2004, using only those application papers filed on April 1, 2004.

¹MPEP 601.01(f).

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010.


Kenya A. McLaughlin
Petitions Attorney
Office of Petitions